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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States Parties due in 1999

Addendum

Portugal*

[6 January 2000]

* This document contains the ninth periodic report of Portugal, which was due on 23 September 1999. For the fifth, sixth, seventh and eighth periodic reports of Portugal, (combined) in one single document, and the summary records of the Committee meetings at which those reports were considered, see documents CERD/C/314/Add.1 and CERD/C/SR.1311 and 1312.

The annexes provided by Portugal are available for consultation in the secretariat files.

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* These annexes are available for consultation in the Secretariat files.

Introduction

1. The present report is intended primarily to respond to the suggestions and recommendations made by the Committee on the Elimination of Racial Discrimination following the submission of the fifth, sixth, seventh and eighth periodic reports of Portugal in March 1998 in a single document (CERD/C/314/Add.1). Given the short amount of time between the Committee's consideration of the eighth report and this one, our main consideration in this report is to update the information contained in the last report.

2. With a view to responding to the suggestions and recommendations made by the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.67 of 8 April 1999), the present report will deal with demographic data concerning the Portuguese population, Portugal's efforts to guarantee the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and developments in jurisprudence and recent legislation on racism and racial discrimination.

I. DEMOGRAPHIC COMPOSITION OF THE PORTUGUESE POPULATION

A. General situation

3. As far as the general situation relating to demographic composition is concerned, the reader is referred to the last report submitted by Portugal (CERD/C/314/Add.1, paras. 6-22). The Constitution has not been amended since the submission of that report. On the basis of the constitutional principle that no distinction may be made on the basis of the origin, religious beliefs, political ideas and race of citizens, it is rather difficult to give an indication of the demographic composition of the Portuguese population by referring to the number of persons belonging to a particular ethnic group. Only some imprecise data exist, particularly with regard to the Gypsy population, the only group which can be distinguished from the Portuguese population as a whole. It has, moreover, never been necessary to compile data relating to the demographic composition of the country.

4. The Portuguese population is homogeneous in the sense that no distinction is made between races, which have mixed and crossbred for centuries. Historically, there has been a Celtic, Iberian, Roman, Carthaginian, Visigoth and Arab presence, as well as a strong Sefardic Jewish presence, and these groups have all mixed in with the rest of the population. Since the time of the maritime expansion (fourteenth-sixteenth centuries) and overseas colonization, communities of all origins have also mixed in with the Portuguese (this was a two-way flow: new ethnic groups came to Portugal and became racially mixed and Portuguese voyagers travelled to all parts of the world). The problems of racism and xenophobia that have recently been observed have no effect on this situation, since they have arisen out of movements which are on the fringes of society and are associated with extreme ideologies.

B. Gypsies

5. With regard to the demographic composition of the population, we can only repeat what was stated in paragraph 16 of the eighth periodic report (CERD/C/314/Add.1), namely, "that there are about 40,000 Portuguese citizens who may be considered to be Gypsies". This figure is

certainly not very precise, but it is a demographic statistic in the sense that it indicates the probable number of citizens belonging to the Gypsy ethnic group, Gypsies being the only Portuguese citizens who form a separate and thus possibly quantifiable population group.

C. Guineans and Kosovars

6. Following the events which took place in Guinea-Bissau in 1998 and in Kosovo in 1999, the Portuguese Government decided to grant temporary protection to Guinean citizens (Council of Ministers decisions Nos. 94/98 of 14 July and 90/99 of 12 August relating to the reception and departure of Guinean citizens) and to Kosovars who were arriving from their country of origin, whose physical integrity was directly threatened and who did not have any other means of protection in their region of origin; this protection was to last as long as armed conflicts and violations of human rights prevented them from returning to their country. These particular cases show that Portugal is committed to humanitarian action as far as receiving refugees from regions in conflict is concerned.

7. With regard to the situation of Guineans, 5,210 residence permits were applied for under Council of Ministers decision No. 94/98, divided up as follows: 5,046 in Lisbon, 32 in Coimbra, 81 in Porto and 51 in Faro. Between 14 July 1998 and 15 July 1999, 2,163 residence permits were granted: 2,013 in Lisbon, 32 in Coimbra, 81 in Porto and 37 in Faro. Two hundred and one of these citizens returned to their country under Council of Ministers decision No. 90/99 of 12 August (of these 201 persons, only 97 benefited from temporary protection).

8. As far as Kosovars are concerned, 1,272 persons were taken in by Portugal between 6 May 1999 and 9 June 1999. Nine persons were born in Portugal, 988 returned to Kosovo, 117 continue to reside in Portugal and 167 cannot be located.

D. Foreigners

9. The statistical report for 1998 prepared by the Aliens and Frontiers Department, which is responsible for the reception, stay and departure of foreigners, is annexed to this report*. On 31 December 1998, the number of foreign residents was 177,774, i.e. an increase of 1.4 per cent compared to 1997. Although an upward trend continues, it may be seen that percentage increases in the foreign population in 1996 (2.7 per cent), 1997 (1.3 per cent) and 1998 (1.4 per cent) have been the lowest since 1981. The two main groups within this foreign population have followed the same trend, i.e. residents from the European Union and the Community of Portuguese-Speaking Countries (CPLP), which, on average, account for about 82.2 per cent of all foreign residents.

10. The distribution of foreigners residing in Portugal has not changed significantly since 1998. The trend continues to be that most reside in the district of Lisbon, which hosts more than 55.2 per cent of the total. The district of Faro follows with comparatively fewer

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* This annex is available for consultation in the secretariat files.

people (about 13.0 per cent), but with an increase over 1997 of 0.3 per cent. Then follow Setu'bal, with 9.2 per cent, Porto, with 6.1 per cent and Aveiro, with 3.9 per cent of residents. The Bragança region, with 0.15 per cent, has the smallest number of foreigners.

11. Although there has been a percentage decrease since 1996 (47 per cent) and 1997 (46.6 per cent), residents from the African continent continue to make up about 46.4 per cent of the overall total. Residents from the European Union account for 27.1 per cent, as compared with 25.3 per cent in 1996 and 26.3 per cent in 1997, thus showing a significant increase. The Asian continent is the least represented, with only 4.2 per cent of residents (3.6 per cent in 1997).

12. With regard to gender distribution, there are more male residents, despite a trend towards an increase in the number of female residents in 1998. In 1996 males made up 58.4 per cent and females 41.6 per cent; in 1997 the figures were 58.3 per cent and 41.7 per cent, respectively, and, in 1998, 58.1 per cent and 41.9 per cent. As to distribution by continent, 15.8 per cent of male foreigners and 13.5 per cent of female foreigners come from Europe; 28.5 per cent and 17.8 per cent are from Africa; 11.1 per cent and 8.6 per cent are from the Americas; and 2.4 per cent and 1.7 per cent come from Asia.

13. As far as occupations are concerned, as in 1997, there is a bias on the part of new residents, particularly with regard to "scientific, artistic, technical and other occupations", which increased by 0.2 per cent in 1998 (in 1996, the figure was 20,571, or 23.7 per cent; in 1997, 21,311 or 24.3 per cent; in 1998, 21,656, or 24.5 per cent) and employment as "workers in mining and processing industries and drivers of fixed and transport machines", which decreased by 0.5 per cent in 1998 (in 1996, the figure was 42,428, or 48.9 per cent; in 1997, 42,370, or 48.2 per cent; and, in 1998, 42,241, or 47.7 per cent).

14. Taking the overall total figures for the "occupations/working population" sector (in 1996, 86,810, or 53.5 per cent; in 1997, 87,893, or 53.4 per cent; in 1998, 88,603, or 53 per cent) and for the "occupations/non-working population sector" (in 1996, 75,399, or 46.5 per cent; in 1997, 76,661, or 46.6 per cent; in 1998, 78,457 or 47.0 per cent), there have been no major changes. Among the working population, there are 17,130 "employers" and "self-employed persons", i.e. 19.3 per cent, whereas 71,473 persons (80.7 per cent) are "employees". Among the non-working population, students account for 44.1 per cent (34,601) of residents and housewives, for 43.3 per cent (33,986) of residents, i.e. most of this sector. Retired residents number 5,609 (7.1 per cent).

15. By analysing movements throughout 1998, it may also be seen that changes occurred compared with 1997: 6,485 residents (5,776 in 1997) entered the country; 3,304 are male (51.0 per cent) (in 1997, there were 3,070 or 53.2 per cent) and 3,181 are female (49.0 per cent) (in 1997, there were 2,706, or 46.8 per cent). They are mostly from the European Union, with 2,889 entries (44.0 per cent of the total) (in 1997, there were 2,763, or 47.8 per cent), and from Africa, which had a percentage decrease, with 1,692 new residents (29.3 per cent of the total figure) (in 1997, there were 1,231 or 21.3 per cent). It should also be noted that official Portuguese-speaking African countries (PALOP) contributed 1,544 persons (91.6 per cent) to the inflow of African residents; and Brazil contributed 670 residents (73.3 per cent) to the inflow from South and Central America. In this migratory flow, the 25/29 year age-group accounted for the largest number of residents, with 13.5 per cent of total entries.

16. With regard to departures, there have been no significant percentage changes compared with 1997. Thus, 3,974 residents left (3,426 in 1997), of whom 2,156 were male (54.3 per cent) (in 1997, 1,917 were male, i.e. 56 per cent) and 1,818 were female (45.7 per cent) (in 1997, 1,509 were female, or 44.0 per cent). Departures are still, for the most part, departures of persons from the American continent, particularly North and South America, i.e. a total of 1,298 persons (32.7 per cent). Brazilian nationals, with 800 departures (20.1 per cent), and United States nationals, with 630 (15.9 per cent) are in the lead. As far as Venezuelan residents are concerned, departures continue to outnumber entries (445, or 11.2 per cent, as against 141, or 2.8 per cent), in line with a trend observed in past years.

17. It should be added, as stated in the last report (CERD/C/314/Add.1, paras. 20-22 and 59), that, the ad hoc regularization of illegal immigrants took place from June to December 1996. It began with the adoption of Act No. 17/96 and continued through Decree-Law No. 150/96, with the establishment of an umbrella organization, the Bureau for the Ad Hoc Regularization of Immigrants (GREI). Approximately 35,000 persons have been regularized in a process coordinated by the Aliens and Frontiers Department in collaboration with other bodies, particularly trade unions, immigrant associations, municipalities and embassies.

18. During this process, the Aliens and Frontiers Department was in charge of receiving applicants, computerizing and considering applications, preparing draft decisions and issuing residence permits. The final decision before the residence permit was issued was taken by an independent commission, the National Commission for Ad Hoc Regularization (CNRE), made up of a representative of the Ministry of the Interior, a representative of the Ministry of Justice, a representative of the Ministry of Employment and Social Security, a representative of the High Commissioner for Immigration and Ethnic Minorities and a representative of immigrant associations.

19. During the regularization process, 45 reception centres, mostly located in areas where large numbers of illegal immigrants live, were set up together with mobile teams. These centres and mobile teams received 35,082 requests for legalization: 31,117 were declared admissible and 3,965 were rejected. Among those declared admissible, 29,809 were accepted for consideration, 687 were rejected and 547 were filed without further action. These last cases relate to incomplete files, since the applicants could not be located so that the necessary corrections could be made. Although some situations have been resolved in the meantime, 74 files are pending because the European departments corresponding to the Aliens and Frontiers Department have not given any reply about persons in situations indicated in the Schengen information system.

20. Most applications for regularization come from Africans, the largest group of applicants being from Official Portuguese-speaking African Countries (PALOP). Angolans have thus submitted 9,255 applications, Cape Verdeans 6,872, Guineans, 5,508 and persons from SaoTomé-and-Principe, 1,549. Brazilian citizens have submitted 2,330 applications for regularization. It should also be mentioned that 89 per cent of applications, i.e. 30,829, have been received and considered by the Regional Directorate in Lisbon.

II. EFFORTS MADE TO IMPLEMENT THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

21. Following the recommendations by the Committee on the Elimination of Racial Discrimination, Portugal began the process of acceding to the article 14 mechanism and the process of ratifying the amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination. These processes have not yet been completed, but there is every reason to believe that Portugal will be able to satisfy the Committee on these points.

22. With regard to the dissemination of information on the situation with regard to racial discrimination in Portugal, the Office of the High Commissioner for Immigration and Ethnic Minorities has the following Internet Web site: http://acime.gov.pt. The Bureau of Documentation and Comparative Law of the Office of the Procurator-General of the Republic has also disseminated the combined texts of earlier reports on its Internet site, which, among other things, contains material relating to human rights; the address is: http://www.gddc.pt. The Bureau's Web site also includes the Portuguese report on the Vienna Declaration, "An assessment of the human rights situation in Portugal in recent years", as well Portugal's latest report which has not yet been discussed, on the implementation of the International Covenant on Economic, Social and Cultural Rights. The Bureau is also responsible for a publication intended for all legal professions, particularly magistrates and lawyers, and entitled "Documentação e Direito Comparado", which contains many texts (doctrine, legislation, international instruments, jurisprudence) relating to human rights.

III. DEVELOPMENTS IN JURISPRUDENCE RELATING TO RACISM AND RACIAL DISCRIMINATION

23. The only one of the cases referred to in the eighth report (CERD/C/314/Add.1, paras. 51, 104 and 105) on which the Ombudsman made recommendation No. 72/A/96, that is still before the courts is that of the Gypsy dwellings in Vila Verde.

24. The people who exerted pressure on the mayor, who then ordered the demolition of the Gypsy dwellings, were accused in court of "terrorist association" by the Prefect of the district of Braga and by the High Commissioner for Immigration and Ethnic Minorities. When suspicions of drug trafficking by the Gypsy population became known, the people established "vigilante groups" to monitor persons entering and leaving the buildings belonging to the Gypsies. Because of such pressure the mayor of Vila Verde ordered the demolition of these dwellings and this led to the recommendation by the Ombudsman referred to in the last report.

25. In conjunction with the High Commissioner for Immigration and Ethnic Minorities, the Prefect of Braga, who tenaciously defended the Gypsies, filed a complaint of "terrorist association" in connection with these acts committed in 1996. Many members of these "vigilante groups" were sentenced by the Court of First Instance for the crime of terrorist association; the penalties were three to four years' imprisonment.

26. During these events, the Prefect of Braga tried to help the Gypsies find somewhere new to live. While their belongings were being moved, he was booed by the population of

two neighbouring villages, Cervães and Francelos, which had taken part in the "vigilante groups"; the Prefect brought charges of assault and defamation. The persons concerned in Cervães publicly apologized to him, but those in Francelos did not.

27. The Public Prosecutor's department handed down lighter sentences for the inhabitants of Cervães because they made a public apology. Appeals were filed in connection with the crime of terrorist association, for which 20 inhabitants of Francelos were sentenced to three to four years' imprisonment, as mentioned above. This complex case is under way at present. Attention is drawn to the positive attitude of the Prefect of Braga and the legal and police authorities who were involved in these events.

IV. RECENT LEGISLATION ON RACISM AND RACIAL DISCRIMINATION

A. Act No. 15/98 of 26 March on asylum and refugees

28. Act No. 15/98 of 26 March (translation annexed*) governs asylum in Portugal. It is of some significance in terms of racism and racial discrimination because it relates in all cases to the reception of foreigners who might be treated in a discriminatory way - something which is not the case in Portugal. Three possibilities for its application are defined:

(a) It relates to asylum situations per se. Article 1 reads:

"The right of asylum is guaranteed to foreigners and stateless persons persecuted on account of activities they have carried out in the State of their nationality of habitual residence in favour of democracy, social and national liberation, peace between peoples, freedom and human rights".

(b) It provides for cases where residence permits are granted for humanitarian reasons. Article 8 reads:

"A residence permit shall be granted for humanitarian reasons to foreigners and stateless persons who are not covered by the provisions of article 2 and who are prevented from returning to the State of their nationality or habitual residence, or feel that it is impossible to do so, for reasons of grave insecurity resulting from armed conflict or systematic violations of human rights".

(c) It also provides for temporary protection. Article 9 reads:

"The State of Portugal may grant temporary protection, for a period not exceeding two years, to persons displaced from their country on account of serious armed conflicts which give rise to large-scale refugee flows".

Temporary protection, as referred to in part I, was the legal basis for admitting Guineans and Kosovars.

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* This annex is available for consultation in the Secretariat files.

29. Act No. 15/98 is based on the principle of family reunification. Article 4, paragraph 1, reads:

> "The effects of asylum may be extended to the spouse and children who are minors, adopted or legally incompetent, at the request of the asylum seeker".

Article 4, paragraph 2, states:

> "Where the asylum seeker is under 18 years old and so requests, the effects of asylum may be extended under the same conditions to his father, mother and minor siblings of whom he is the sole support"

30. The granting of asylum takes place in two phases. The first is an administrative phase during which the application for asylum is considered; a decision is taken by the Director of the Aliens and Frontiers Department, with the possibility of an appeal having suspensive effect to the National Refugee Commission. The Commission takes a decision which can also be appealed to the Administrative Court of First Instance, the time limit for the appeal being one week. The final granting of asylum takes place in two phases. The first is an administrative phase during which the application for asylum is considered; a decision is taken by the Director of the Aliens and Frontiers Department with the possibility of an appeal having suspensive effect to the National Refugees Commission. The Commission takes a decision which can also be appealed to the Administrative Court of First Instance, the time limit for the appeal being one week. Once the application has been approved in the administrative phase, the final decision is taken by the Minister of the Interior and a temporary residence permit, valid for 60 days, is issued by the Aliens and Frontiers Department. In the event of an unfavourable decision, an appeal can be filed with the Supreme Administrative Court.

31. The Act provides for social welfare assistance during the asylum proceedings.

B. Act No. 20/98 of 12 May on work by foreigners

32. In Portugal, there is no discrimination against foreign workers. Parliament has, however, believed it necessary to set out the rules relating to work by foreign nationals in new terms, compared to the previous law, Decree-Law No. 97/77 of 17 March, which established that, in enterprises with more than 5 employees, 90 per cent must be Portuguese. Under the new legislation on work by foreigners, Act No. 20/98 of 12 May, an employer may freely employ any worker residing legally in Portugal, regardless of nationality.

33. Foreign nationals who are legally entitled to reside or stay in Portugal enjoy the same working conditions as Portuguese workers in the exercise of their professional activity. However, there are some differences in terms of procedures to be followed in order to formalize their employment contract, depending on whether the foreign worker's country of origin guarantees equality of treatment for Portuguese workers.

34. Workers who are citizens of member countries of the European Economic Area (including, of course, nationals of European Union countries) enjoy exactly the same treatment as Portuguese nationals. The majority of workers who have emigrated to Portugal are from

countries which do guarantee equal treatment for Portuguese workers. When a person is hired, the employer informs the Institute for the Development and Inspection of Working Conditions (IDICT) in writing that an employment contract has been drawn up, indicating the employee's nationality, occupational category, functions and date of entry on duty (art. 5.1). The employer must also report the cessation of employment, in writing, within a period of two weeks (art. 5.2).

35. Under the terms of the notice on work by foreigners in Portugal, published in Labour and Employment Bulletin No. 17 of 18 May 1999 (first series), most foreign workers are exempted from the requirement of concluding an employment contract in writing.

36. In the case of other foreign nationals and stateless persons, a written contract is required, together with a document proving that the legal provisions on the entry and stay of foreign nationals in Portugal have been respected. The contract is deposited with IDICT. When the working relationship ceases, the employer must report this fact in writing, within two weeks, to the IDICT office with which the contract was deposited (art. 4.4).

37. This procedure does not in any way call into question the principle of freedom to conclude an employment contract with any worker legally resident in Portugal, regardless of nationality, or the principle of equality of treatment in professional activity.

C. Decree-Law No. 244/98 of 8 August on the entry, stay and departure of foreigners

38. The purpose of the new regulations on the entry, stay and departure of foreigners is to strike a balance between good reception conditions for foreigners and Portugal's commitments in the European Union context. With regard to the stay of foreigners in Portugal, an application for a residence permit may be made by the person concerned or by his legal representative and must be submitted to the Aliens and Frontiers Department. The residence permit depends on possession of a valid residence visa and the absence of any reason which, if it had been known to the Portuguese authorities, would have prevented the visa from being granted and the person concerned from being present in Portuguese territory. The residence permit is either temporary or permanent (art. 82). The temporary residence permit is valid for two years and renewable for the same period of time. There is no limit to the validity of the permanent residence permit; it must, however, be renewed every five years.

39. Residence permits will be renewed for foreigners who have legally resided on Portuguese territory for 10 consecutive years and who have not been sentenced to a penalty or penalties which, either alone or in combination, exceed one year's imprisonment. A housing form is required for the monitoring of foreigners in Portuguese territory.

D. Act No. 134/99 of 28 August prohibiting discrimination in the exercise of rights on grounds of race, colour, nationality or ethnic origin

40. Act No. 134/99 of 28 August (referred to several times in the reply to the questionnaire prepared by the United Nations in accordance with Commission on Human Rights resolution 1999/78, entitled "Racism, racial discrimination, xenophobia and related intolerance",

annexed* prohibits discrimination in the exercise of rights on grounds of race, colour, nationality or ethnic origin. Under its article 2, it applies to all natural and legal, public and private persons.

41. According to article 2, any distinction, exclusion, restriction or preference which is based on race, colour, ancestry or national or ethnic origin and whose aim or result is to prevent or restrict the recognition, enjoyment or exercise, on equal terms of rights, freedoms and safeguards or cultural, social and economic rights constitutes racial discrimination.

42. Article 4 gives a non-exhaustive list of discriminatory practices, which include:

(a) The adoption, either directly by the employer or through instructions given to his workers or to the employment agency, of a procedure, measure or criterion, which makes the job offer, the cessation of the working relationship or the refusal to hire subject to racial considerations;

(b) The production or dissemination of job offers, or other forms of pre-selection or recruitment publicity which, either directly or indirectly, contain a specification or a preference based on considerations of racial discrimination;

(c) The obstruction by any natural or legal person of the enjoyment of, or the refusal to provide, goods or services;

(d) The prevention or restriction by any natural or legal person of access to and the normal exercise of an economic activity;

(e) The refusal to sell, let or sublet buildings or a requirement to this effect;

(f) The denial of access to public buildings or buildings open to the public;

(g) The denial or restriction of access to private or public educational establishments;

(h) The creation of classes or the adoption of other internal organizational measures in public or private educational establishments, according to criteria of racial discrimination, unless these criteria can be justified by the objectives mentioned in article 3, paragraph 2 ("The provisions of this Act do not prevent administrative, regulatory or legislative provisions designed to benefit some underprivileged groups with a view to guaranteeing the exercise in conditions of equality of the rights referred to therein from entering into force or being implemented");

(i) The adoption by any body, civil servant or administrative official reporting directly or indirectly to the State, autonomous regions or local communities of a practice or measure which places conditions on or restricts the exercise of any right;

(j) The adoption by the employer of a practice which, within the context of the working relationship, constitutes discrimination against an employee;

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* This annex is available for consultation in the Secretariat files.

(k) The adoption of a document by a natural or legal person which publicly issues a statement for wide dissemination that threatens, insults or demeans a group of persons on racial grounds.

43. According to article 4, paragraph 2, "It is prohibited to dismiss, sanction or otherwise harm a worker on the grounds that he has exercised a right or taken legal action against a discriminatory practice".

44. This Act establishes the Commission for Equality and against Racial Discrimination, which is presided by the High Commissioner for Immigration and Ethnic Minorities, and provides for administrative sanctions which do not rule out the possibility of extra-contractual civil liability. It must be interpreted and incorporated in accordance with the Universal Declaration of Human Rights, the European Convention on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

CONCLUSIONS

45. Portugal seeks at all times to ensure the welfare of the persons in its territory. It is trying to combat racial discrimination, with every means at its disposal.

46. Portugal does not regard itself as a racist or xenophobic country. Isolated acts by the population in some parts of the country, which are subject to prosecution, should be perceived not as reflecting racist or xenophobic practices, but as exceptional phenomena, even when they are particularly shocking.

47. The Portuguese population has been regularly mixed and crossbred by successive arrivals of new ethnic groups that have left it with unusual tolerance and respect for differences. As a result of so many centuries of mixing, it is now homogeneous. The only part of the population which has not mixed with other groups is the Gypsy population, which is composed of about 40,000 persons, the only figure on demographic composition that is indicative of a distinction between ethnic groups, since it relates to an ethnic group that is differentiated from the population as a whole.

48. In this ninth report, Portugal hopes to have responded to the suggestions and recommendations made by the Committee on the Elimination of Racial Discrimination. It also hopes to maintain a fruitful dialogue with the Committee that will help improve the situation in Portugal with regard to action to combat racism and racial discrimination.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States parties due in 1999

Addendum

Viet Nam*

[20 July 2000]

* This document contains the sixth to ninth periodic reports of Viet Nam, submitted in one document, due on 9 July 1993, 1995, 1997 and 1999. For the second to fifth periodic reports of Viet Nam, submitted in one document, and the summary records of the meetings at which the Committee considered those reports see documents CERD/C/204/Add.1 and CERD/C/SR.994 and 1005.

GE.00-45116 (E)

1. The Socialist Republic of Viet Nam acceded to the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter "the Convention") on 9 June 1982. The present report reviews Viet Nam's implementation of the Convention from 1993 up to now.

I. GENERAL ISSUES

A. Geography and people

2. The Socialist Republic of Viet Nam is located in South-East Asia, and has a land area of more than 331,000 km^2, of which three quarters are hilly or mountainous, and a long coastline. According to the 1999 census, Viet Nam has a population of 77 million with over 20 per cent in urban areas. The average life expectancy for men is 65 years while that for women is 67.5 years. Viet Nam is a unified nation comprising 54 ethnic communities cohabiting on the same soil in which the majority Vietnamese (the Kinh), making up 86.8 per cent of the population, live mainly in the lowlands while 53 other minority groups commonly referred to as ethnic communities, live mainly in the mountainous areas and highlands. The ethnic communities often cohabit and there is no separate geographical area for any ethnic group.

3. At present, 80 per cent of the Vietnamese population are in the agricultural sector where manual labour is still the main feature and their lives are much dependent on natural conditions. The share of GDP of each sector in the year 1998 was 25.7 per cent for agriculture, forestry and fisheries; 32.59 per cent for industry and construction; and 41.66 per cent for services.

4. Since 1986, Viet Nam has been undergoing a process of comprehensive reform and renewal with an overall objective of shifting its centrally planned economy to a multisectoral Socialist-oriented and market economy driven by State regulations. Strengthening democracy in social life has been promoted on the basis of building a State of the people, by the people and for the people governed by the rule of law, and with an open foreign policy desiring to be friendly to all countries in the international community in striving for peace, independence, and development.

5. In 1991, the Government of Viet Nam adopted the "Strategy Plan for Social-Economic Stabilization and Development to the Year 2000". The fundamental principle of this Strategy is to place the human person at the centre of development; to unleash the full potential of every individual as well as of the whole community; to harmonize economic with social development. The overall objective of this Strategy is to bring our country out of the social-economic crisis, develop quickly, and double GDP compared with 1990 by the year 2000.

6. To date, the reform process has recorded many important achievements, bringing our country out of the social-economic crisis. Viet Nam has now entered a new stage of development, implementing industrialization and modernization. From 1990 to 1997, the economy registered relatively high and stable economic growth with an annual average rate of 8.5 per cent. In 1997, real GDP increased 1.75 times and can be doubled by the year 2000 as planned. In the period 1995-1997, the growth rate reached 9.2 per cent annually. Since 1998, due to the adverse impacts of the regional financial crisis and the serious consequences of natural disasters, the economic growth rate dropped to 5.83 per cent. The three-digit inflation rate in the period 1986-1988 fell to 14.4 per cent, 4.5 per cent, 3.6 per cent and 9.2 per cent in 1994, 1996,

1997 and 1998, respectively. In agriculture, thanks to intensive investment and new management policies, agricultural production increased sharply, turning Viet Nam from a regular rice importer into one of the largest exporters of rice in the world, with 3.5 million tonnes exported in 1997 (3.8 million in 1998, 4.5 million in 1999).

7. In parallel with the economic achievements, our renovation has also seen encouraging development in the social field. More than 20 per cent of the State budget was allocated annually for social sector expenditure, contributing to political stability and promoting economic development in the following fields:

(a) Job creation is one of the most important national target programmes. On the one hand, the State provided favourable legal conditions and policies to encourage foreign and local investors to invest in production that would generate more jobs. On the other, the State set up the National Job Generation Fund to give preferential loans to support workers to create jobs for themselves. As a result, in the period 1991-1998, from 1.2 to 1.3 million jobs were created annually, reducing the unemployment rates among working people in the city from 8-9 per cent in 1990 to 6.02 per cent in 1997;

(b) On hunger eradication and poverty reduction (HEPR). The Government of Viet Nam plans the national target programme on HEPR, sets up a bank to assist the poor, integrates the poverty reduction programme into other national programmes. As a result, poor households have been reduced considerably, from 30.01 per cent in 1992 to 17.7 per cent and 15.7 per cent in 1997 and 1998, respectively;

(c) On education. Education has always been given the highest priority in the national policy. By the end of 1998, 51 out of 61 provinces and cities reached the national requirement on literacy and universalization of primary education. The average literacy rate reached 93 per cent and that for the labour force is 97 per cent. An extensive school network for general education has been developed with primary schools in all communes;

(d) Health care. Health care has been increasingly enhanced thanks to a 15-20 per cent increase in State expenditure for this sector. More than 90 per cent of the population have access to medical services through the communes, wards and towns. 91.9 per cent of children were vaccinated in the 1992-1996 period. 95.5 per cent of them in 1997 under the expanded immunization programme (EPI). As a result, contagious disease mortality among children has reduced markedly. The child mortality rate for under-fives fell from 81 per cent in 1990 to 68 per cent and 61 per cent in 1994 to 1997, respectively. Maternal mortality went down from 1.1 per cent in 1996 to 1 per cent in 1997. The prevention and treatment of social diseases have been highly effective. Malaria morbidity and mortality rates have gone down by 10-15 per cent. Goitre morbidity declined by 2-3 per cent following the Iodized Salt Programme for the whole population;

(e) Population and family planning. The Government identified this as an important task and a national target programme requiring intensive investment. Public awareness of the relationship between population and development has clearly improved in recent years. As such, the population growth rates in the past decade (1989-1999) has been reduced to 1.7 per cent, a reduction of 0.4 per cent as compared to the previous decade.

B. Political system and structure of the State apparatus

8. On 2 September 1945, the Democratic Republic of Viet Nam proclaimed independence. In the three decades that followed, the Vietnamese people put up heroic struggles to complete the national democratic revolution. On 30 April 1975, the South was liberated and the country reunified. On 2 July 1976, the National Assembly of united Viet Nam decided to rename the country the Socialist Republic of Viet Nam.

9. In the context of the country's comprehensive renovation, on 15 April 1992 the National Assembly approved the revised Constitution, hereinafter referred to as the 1992 Constitution (previously the 1946, 1959 and 1980 Constitutions). This is the most fundamental legislation of the State that defines the political, economic, cultural, social, and security regime of the country as well as the basic rights and obligations of its citizens, the relationship between the State and the citizens, and the organizational and operational structure of the State apparatus. It also institutionalizes the relationships between the leadership of the Party, the management of the State and the primacy of the people.

10. The Communist Party of Viet Nam is the vanguard of the Vietnamese working class, the faithful representative of the interests of the working class and of the entire people and nation, and is the leading force of the society. All the party's organizations operate within the Constitution and laws.

11. The State of the Socialist Republic of Viet Nam is of the people, by the people and for the people. All the State power belongs to the people.

12. The State apparatus of the Socialist Republic of Viet Nam, comprising a system of State agencies from the centre down to the grass roots, is organized and operated in line with common and uniform principles provided for by the Constitution and the laws. This creates a homogenous mechanism implementing the function and duties of a socialist State governed by law, in which there is a suitable division of the three powers, namely: the legislative, the executive and the judicial power. The State apparatus consists of the following main bodies:

(a) The National Assembly. The National Assembly is the highest representative body of the people and the highest State authority in the Socialist Republic of Viet Nam. The National Assembly is the only body vested with constitutional and legislative powers. The National Assembly decides on fundamental domestic and foreign policies, national socio-economic, defence and security tasks, on the basic principles governing the organization and functioning of the State apparatus, and on the social relations and the activities of citizens. The National Assembly exercises the right of supreme supervision of all State activities;

(b) The President. The President is the head of State, acting on behalf of the Socialist Republic of Viet Nam in domestic and foreign affairs;

(c) The Government. The Government is the executive body of the National Assembly and the highest State administrative body of the Socialist Republic of Viet Nam. The Government assumes the unified administration of the execution of all political, economic, cultural, social, national defence, security and external activities of the State; ensures

the effectiveness of the State apparatus from the centre down to the grass roots; guarantees the respect for and observance of the Constitution and the laws; promotes the rights of the people who are the key masters in national construction and defence; ensures the stabilization and improvement of the cultural and material life of the people. The Government is accountable to the National Assembly, its Standing Committee and the country's President.

C. Human rights protection within the overall legal framework

13. The 1992 Constitution devotes a separate chapter V, from article 49 to article 82, providing for the fundamental rights and obligations of citizens. Article 50 stipulates: "In the Socialist Republic of Viet Nam, human rights in all aspects, political, civil, economic, cultural and social, are respected. They are embodied in the rights of the citizens and are provided for by the Constitution and the law."

14. Since 1987, together with the 1992 Constitution, Viet Nam has enacted more than 13,000 legal documents of various types, of which there are 40 Laws and Codes, over 120 Ordinances, nearly 850 legal documents issued by the Government or the Prime Minister and over 3,000 documents of all ministries and branches with a view to putting the Constitution into concrete terms and creating an effective mechanism for its implementation.

15. Viet Nam has recorded important legislative achievements over the past 10 years in the process of renovation (Doi moi). The most important record has been the establishment of a legal guarantee for everybody to enjoy equal opportunities and conditions in exercising their fundamental rights. Viet Nam has ratified or acceded to eight important United Nations human rights conventions which include the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child. Fundamental human rights and freedoms provided for in the international conventions to which Viet Nam is a party are guaranteed in Vietnamese law. Viet Nam endorses the view that these international conventions take precedence over domestic laws and regards them as an organic part of Vietnamese law. The incorporation of the basic provisions of these international conventions into the national legal norms (termed the internal harmonization of law) has become a matter of principle and is being observed in the country's lawmaking process.

16. The State bodies responsible for legal protection and ensuring human and citizens' rights are the People's Courts, the People's Procurators, the Investigation and Inspection Agencies, the State Notary Office, the Advocate Association, and the Departments on Judicial Enforcement and Supervision. In the process of overall renovation, the restructuring of these agencies constitutes an important part of the reforming process to build and improve the State apparatus of the Socialist Republic of Viet Nam. The principle of judicial independence and observance of the law is respected by the courts, especially in dealing with violations of human rights and fundamental freedoms.

17. The operations of the people's jury and reconciliation groups at the commune and district levels, especially of the member organizations under the Viet Nam Fatherland Front (including the Viet Nam Women Union) have effectively contributed to the guarantee of citizens' rights in practice. In addition, there are a great number of specialized agencies responsible for studying and monitoring human rights protection in general in Viet Nam. The Study Centre on Human Rights at the Ho Chi Minh Political Institute is a case in point.

D. Legal information and communication

18. In order to promote and enhance the awareness of the public as well as of the authorities on human rights protection in recent years, Viet Nam has made great efforts in introducing and disseminating the various legal documents. The National Political Publishing House has published in Vietnamese the various United Nations human rights conventions that Viet Nam has acceded to. Training programmes and studies on human rights issues are being done in universities and research institutes. Important conventions, including the Convention, have been translated into Vietnamese for distribution. Some have been disseminated in the languages of different ethnic groups. Furthermore, the mass media have frequently carried special programmes on legal education and regularly deal with human rights protection.

19. The Department of Legal Dissemination and Education under the Ministry of Justice is in charge of providing information and education on legal matters for the population. The Department coordinates with other State agencies concerned, with the schools and mass organizations in introducing and disseminating legal materials for the population and introducing legal education into the school curriculum.

20. Dissemination of the legal documents on human rights, including the Convention, to the population have been conducted through various channels such as the Vietnamese Law Association, the Vietnamese Confederation of Labour, the Vietnamese Women Union, the Ho Chi Minh Communist Youth and others. Legal materials and documents are made available to the population at the grass-roots level. Many publications in the forms of leaflets, pocket books and posters have been distributed, and lectures, seminars and workshops on human rights have been held.

21. In line with decision No. 03/1998/QD-TTg issued by the Prime Minister in 1998 on legal dissemination and education between 1998 and 2002 and on the establishment of the Coordination Councils in charge of legal dissemination and education, almost all the 61 provinces and cities under immediate central authorities have so far established such Coordination Councils and adopted their dissemination plans.

22. Government ministries and agencies such as the Ministry of Foreign Affairs, the Ministry of Justice, the National Committee on Ethnic Affairs and Mountainous Regions, the Vietnamese National Committee for Child Protection and Care, the Vietnamese National Committee for the Advancement of Women, etc. were tasked with the preparation of the national reports on implementation of the international human rights instruments, particularly the Convention, in which there is an active contribution by the mass organizations.

II. IMPLEMENTATION OF THE CONVENTION

A. Nationality policy of Viet Nam

23. For the Vietnamese people, racial discrimination is unfamiliar and does not exist in the country. In Viet Nam, all ethnic groups have, from time immemorial, coexisted peacefully without racial conflicts and discrimination. All ethnic groups in Viet Nam, regardless of their size, language, culture, history and level of development, have enjoyed the same rights in all aspects of life.

24. It is Viet Nam's consistent nationality policy to ensure equality, solidarity and mutual assistance for mutual progress and development. This position is also enshrined in article 5 of the 1992 Constitution of Viet Nam which states: "The Socialist Republic of Viet Nam is the unified State of all nationalities living on the territory of Viet Nam. The State carries out a policy of equality, solidarity and mutual assistance among all nationalities, and forbids all acts of ethnic discrimination and division. Every nationality has the right to use its own language and writing, to preserve its national identity, and to promote its own customs, habits, traditions and culture. The State pursues a policy of comprehensive development and progressively promotes the material and spiritual life of all ethnic minorities."

25. Viet Nam's ethnic policy is aimed at eliminating the gap in economic, cultural and social development between different ethnic groups, and between them and the whole population, and helping the mountainous areas to catch up with the delta areas so that all groups can advance and attain a prosperous, advanced and happy life, mutually benefiting from comprehensive development, unity and progress. That policy also enables different ethnic groups to bring into full play their self-resilience and promotes social, economic and cultural development for ensuring equal rights among groups. In the immediate future, it is Viet Nam's key task to accelerate economic, cultural and social development, to improve the living standards of ethnic minorities, and to actively train officials for ethnic groups.

26. Accordingly, Viet Nam has been pursuing a consistent policy against all manifestations and forms of racial discrimination whether they are in Viet Nam or elsewhere in the world.

27. At present, the Nationalities Council of the National Assembly is a focal point for coordinating with other government agencies to draft the Ethnic Law to submit to the National Assembly.

B. Article 2. Socio-economic development policies

28. The objectives set forth in article 5 of Viet Nam's 1992 Constitution have been rendered in concrete terms in many legal documents, policies and decisions made by the Government relating to nationalities as well as in the course of development and improvement of the State agency network to facilitate the development of all ethnic nationalities.

29. The Nationalities Council of the National Assembly is the highest State agency in charge of the country's ethnic issues. The Nationalities Council studies and tables proposals to the National Assembly on issues concerning nationalities; supervises and controls the

implementation of policies on nationalities; executes programmes and plans for the socio-economic development of the mountainous areas inhabited by ethnic groups. Before taking decisions relating to nationality policies, the Government is required to consult with the Nationalities Council. The Chairman of the Council can attend the meetings of the National Assembly's Standing Committee and those of the Government to discuss the implementation of policies on nationalities.

30. The Committee on Ethnic Affairs and Mountainous Regions is a government agency responsible for the State management of ethnic and mountainous issues throughout the country, and at the same time serves as a staff agency to put forward policies and guidelines on ethnic groups and the mountainous areas.

31. Over the past years, the Government has adopted many concrete socio-economic policies to mobilize internal resources from all economic sectors both at home and abroad. With investment and support from the State, all these economic sectors have been encouraged to exploit every local resource and potential of the land, climate, forests and minerals in developing agroforestry and industrial production; in promoting health care and cultural and social welfare; in encouraging sedentary living and farming with a view to reducing poverty, eradicating hunger and improving step by step the living standards of ethnic groups. In the past years, the Government has solved those pressing issues in localities inhabited by ethnic groups through road expansion; improvement of access to electricity and radio and television networks; provision of public projects on health and educational and cultural development. Furthermore, the Government has also created more favourable conditions for ethnic minorities to promote their economic, social and cultural development in order to enhance their quality of life. Following are the concrete decisions, programmes and projects undertaken for the purpose:

(a) Decision No. 35-TTg of 13 January 1997 of the Prime Minister approving the programme to build cluster centres for mountainous and highland communes. This decision serves as a basis for the concerned ministries and provinces to formulate their annual or five-year plans. The objective of this programme is to mobilize all local resources and integrate all local programmes to build essential infrastructure for each cluster centre with a view to providing a driving force for socio-economic development in mountainous areas inhabited by ethnic groups by stimulating sociocultural activities in each subregion, promoting the relationship among the hamlets, villages, village clusters and urban areas so as to bring into full play the strengths of communities while preserving and promoting their ethnic identity and thereby contribute to building a new rural life in the mountainous areas. Fifty projects under this programme have been completed with tangible effects, and 80 others are partially completed. In fact, the operation of the communal cluster centres has proven very useful in facilitating cultural exchange and economic development in the region. These programmes have been evaluated by the Government, various agencies, branches and localities as highly effective and have been well received by the ethnic groups. There is solid ground to conclude that the programme for building communal cluster centres is a correct and appropriate policy aimed at helping the mountainous areas and ethnic people to overcome difficulties in the process of industrialization and the formulation of a new countryside in the mountainous region;

(b) Decree No. 20/1998/ND-CP of 31 March 1998 of the Government on the development of commerce in the mountainous islands and ethnic regions. This decree contains policies encouraging commercial activities and the supply of essential commodities for ethnic people living in those regions. The State encourages the establishment of markets, trading shops or commercial services run by local government agencies and cooperatives; allows the exemption from and reduction of taxes on business turnover and profits; lowers the interest rates and provides exemption from tuition fees for the training and retraining of public servants and employees engaged in commercial activities in these regions. Since 1994, the State has given support and subsidies for kerosene for lighting, writing paper and books for pupils, medicaments, fertilizers, seeds, insecticides, coal, and even radios for specially difficult regions. The State also supports and provides transport subsidies to promote the consumption of agricultural goods produced in these regions. These policies have helped to stabilize the prices of essential goods, improve the people's living standards, accelerate the structural shift of crops, and promote production in the ethnic and mountainous regions;

(c) Decision No. 135/1998/QD-TTg of 31 July 1998 of the Prime Minister on the programme of socio-economic development in certain remote communes facing special difficulties (called Programme 135). The overall objective of this programme is to quickly improve the material and spiritual life of the ethnic people in those remote communes and to create favourable conditions for them to overcome poverty, backwardness and underdevelopment, so as to be able to integrate into the overall national development. In 1999, the programme provides direct investment for the construction of key infrastructure and training personnel in 1,000 communes facing special difficulties, and in the year 2000 in 1,870 other communes selected among 284 districts belonging to 49 provinces across the country. The work on population planning, production development and construction of the communal cluster centres have been carried out simultaneously and integrated with other programmes and projects implemented in the same areas. So far, according to the reports from 30 provinces covered by the programme, 1,753 projects have been deployed and substantial investments have been made in accordance with the programme requirements (access roads, mini-hydroelectric stations, clean water and electricity supply, schools and health clinics). The structure of investment is designed to meet the urgent demands of production and life in those particular areas. So far, more than 80 per cent of the 1,753 projects have been started and 402 projects have already been put into operation. Under this programme, 164 new classrooms have been built to meet the demands of the new school year. As a result, it was considered by various branches and agencies as effective and was warmly welcomed by the local people;

(d) Decision No. 133/1998/QD-TTg of 23 July 1998 of the Prime Minister approving the programme of support to ethnic areas facing special difficulties, known as Programme 133 (within the framework of the National Target Programme on Hunger Elimination and Poverty Reduction). In the seven years of the Programme's implementation (1992-1998), 40 ethnic groups in 41 provinces received support with a total funding of 210.7 billion dong. This Programme focused on uplifting ethnic people's living standards and supporting the development of their agricultural production by building a number of agroforestry production models, thereby helping to eliminate hunger and reduce poverty for the people in Quang Ninh, Nghe Tinh, Ha Tinh and An Giang. Many localities have also integrated this Programme with other projects in their areas and was proved to be quite effective in such provinces as Binh Thuan, Kien Giang, Tra Vinh, Bac Can and Thai Nguyen, etc.;

(e) Decision No. 727/TTg of 9 November 1995 of the Prime Minister approving the master plan for investment in socio-economic development in Muong Te district, Lai Chau province, for the 1996-2000 period. The objective of this project is to provide people in this area with new ways of production, to reduce poverty and to protect the forests, gradually improving their economic, cultural and social life, particularly their health care, so as to create the necessary conditions for them to integrate into the mainstream of development in line with other ethnic communities. Important experience is also expected to be gained from this project for better guidance for similar programmes in other districts. Considerable progress has been seen in Muong Te district right after the initial investment. The infrastructure has clearly improved. The Lai Chau-Muong Te land route and other routes from Muong Te to other communal clusters have been opened, 400 hectares of rice fields have been irrigated, 17 out of 18 schools were constructed with solid materials; 100 per cent of the communes have health clinics, 21 water supply stations were put in place, two radio and television transmission stations established, the district's 250-seat culture house was completed, and books and newspapers were made available to every commune. By the end of 1999, the project had increased the forest coverage to 40.2 per cent, helping the localities to achieve the target of 228 kg of grain per capita; the poverty rate was brought down to 38.6 per cent. The project has greatly improved the people's lives.

32. Health-care policy. Diseases and epidemics remain a constant threat to ethnic people as a consequence of their poor living conditions, high poverty rate, low knowledge level, existence of some uncontrolled social diseases and lack of clean water in some areas. To solve this problem, many health-care policies have targeted the mountainous inhabitants with various programmes on the control of malaria, goitre, leprosy and tuberculosis. Also important is the expanded programme of immunization. The Programme on Strengthening Grass-roots Health Centre Networks has as its major components constructing and upgrading communal and district health clinics; provision of essential medicaments; training of hamlet medical staff; providing the inhabitants in highland communes with a health insurance card entitling them to a 20 per cent discount rate on medical fees in any local health centres.

33. In conclusion, all the above-mentioned programmes and policies have been implemented in a synchronized and well-targeted manner in line with their original objectives. As a result, they have achieved socio-economic efficiency and created encouraging socio-economic changes in the mountainous and ethnic regions.

C. Article 3. Policy against apartheid and racial separation of Viet Nam

34. Viet Nam is strongly convinced that discrimination on the basis of ancestry, race, skin colour and ethnicity has been a major hindrance to the friendly and peaceful relationship among nations. This also constitutes one of the reasons leading to wars and instability in many parts of the world. Viet Nam has been implementing and will continue to pursue a foreign policy of peace and friendship with all countries in the world. Viet Nam condemns apartheid, racial discrimination and segregation and all forms of racial discrimination including xenophobia, no matter where they take place. Viet Nam is a signatory to the International Convention on the Suppression and Punishment of the Crime of Apartheid. Viet Nam unswervingly supports the United Nations resolutions condemning apartheid and other forms of racial discrimination.

Viet Nam is concerned at the increasing manifestations of new forms of racism and racial discrimination, such as neo-Fascism, xenophobia and racial intolerance. Therefore, the Vietnamese Government supports the convening of a world conference against racism in 2001.

D. Article 4. Policies and legislation regarding acts of racial discrimination

35. Article 5 of the Constitution of Viet Nam provides that "The State forbids all acts of national discrimination and division".

36. Article 87 of the Criminal Code stipulates that "sowing national hatred, discrimination and division, and infringements upon the equal rights of the different ethnic groups in Viet Nam are acts undermining the national solidarity policy and those who commit such acts will be subject to a term of imprisonment of between 5 to 15 years".

37. Article 10 (para. 2) of the Law on the Press (28 December 1989) forbids acts that incite violence, aggressive war and sow hatred between nations and peoples. Thus, all acts of propagating national discrimination, inciting hatred among nations and violent acts against an individual or a group of individuals of other races or minority groups are punishable under Vietnamese law.

E. Article 5. The right to be equal before the law

1. Article 5 (a) - The right to be equal before the courts and other judicial organs

38. The right of all Vietnamese citizens to be equal before the law - without any distinction of sex, ethnic origin, language, religion, social status, family origin, residence, etc. - is asserted in article 52 of the 1992 Constitution which states "all citizens are equal before the law". This constitutional norm is specified further in concrete terms in all Vietnamese legal documents regarding all aspects of our political, economic, cultural and social life.

39. Article 8 of the Law on the Organization of People's Courts (6 October 1992) provides that "The Courts proceed on the principle of every citizen's equality before the law without any distinction as to ethnic origin, sex, conviction and belief, religion or social status".

40. Article 4 of the Criminal Procedure Code stipulates that "criminal procedure proceeds on the principle that all citizens are equal before the law without any distinction of sex, ethnic origin, conviction and belief, religion and social status. Any person who commits an offence shall be punished in accordance with the law". Article 21 of the Code also guarantees the equal right to use one's own language in criminal proceedings: "persons conducting and participating in criminal proceedings have the right to use their own mother tongue and script".

41. As regards labour rights, article 5 of the Ordinance on Resolving Labour Disputes (11 April 1996) stipulates that "all parties are equal with regard to their rights and obligations in the process of resolving labour disputes". Article 6 of the Ordinance on the Procedures for Settling Economic Disputes also provides that all parties are also equal in their rights and obligations during the process of resolving economic disputes.

42. The Law on Complaint and Denunciation stipulates that "citizens have the right to complain to responsible State organs and organizations, or other responsible persons and to denounce illegal acts of any body, organization or person who harms or threatens to harm the State's interest and legitimate rights or the interest of other bodies, organizations or persons" (art. 1). The law also provides that all acts violating the equal rights of all citizens before the courts and other judicial organs will be punished. At the National Assembly, the Judge of the People's Supreme Court, the People's Supreme Procurator, the Minister of Justice and heads of other relevant organs have to answer the questions put by the deputies regarding the handling of those cases complained of and denounced by the citizens.

2. Article 5 (b) - The right to physical inviolability

43. The right to physical inviolability without any distinction of sex, age, ethnic origin or religion is stipulated in article 71 of the 1992 Constitution of Viet Nam, which states that "the citizens have the right to physical inviolability and legal protection of their life, health, honour and dignity. Unless there is a warrant by the People's Court or a warrant by the People's Prosecutor, no one is subject to arrest except in the case where he or she is caught red-handed in violation of the law. Arrest and detention of people must be conducted in accordance with the laws. All forms of coercion, humiliation or violation of citizens' honour and human dignity are strictly prohibited".

44. Article 5 of the Law on Criminal Procedure guarantees the right to physical inviolability of citizens: "Nobody shall be arrested without a decision of a court or a decision approved by the Prosecutor. Arrest and detention of a person must be undertaken in accordance with the provisions of this law. Acts of coercion or torture are strictly prohibited." Article 6 of the law stipulates that "any act causing danger to the life, health, property, honour and dignity of citizens shall be strictly punished by law".

45. Particularly, the new Penal Code has increased the level of punishment for offences against the juridical process (chap. XII), including specific punishments for the imposition of criminal liability upon innocent people (art. 293), inflicting corporal punishment (art. 299), and abusing one's position and power to detain a person in contravention of the law (art. 303.)

46. In practice, in order to guarantee the effectiveness of the enforcement of the new Penal Code (effective from 1 July 2000), all concerned State organs were required to carry out training to enhance their people's ability to handle properly the proceedings against the violation of personal safety, or to prevent acts of violence. This is one of the areas that has drawn the special attention of government bodies, social organizations and citizens in the recent past.

3. Article 5 (c) - Political rights

47. Political rights, especially the right to vote in elections, to stand for election, to participate in State management and to participate in the Government are guaranteed by the 1992 Constitution. Article 53 of the Constitution stipulates that "the citizen has the right to participate in the administration of the State and management of society, in the discussion of problems of the country and the region, in sending petitions to State organs and voting in referendums organized by the State".

48. Article 54 of the same document further stipulates that "the citizen, regardless of nationality, sex, social background, religious belief, cultural standard, occupation, time of residence, shall, upon reaching the age of 18, have the right to vote, and upon reaching the age of 21, have the right to stand for election to the National Assembly and the People's Councils in accordance with the provisions of the law". "Elections to the National Assembly and the People's Councils are held in accordance with the principles of universal, equal, direct, and secret suffrage" (art. 7).

49. In the National Assembly, the supreme legislative body reflecting the collective right of the people, the percentage of deputies representing ethnic people is relatively high and they are given important positions. Article 9 of the Law on Election of National Assembly Deputies stipulates that "the number of ethnic deputies at each National Assembly Legislature is decided by the Standing Committee of the National Assembly on the basis of ensuring an appropriate number of ethnic deputies". Of 450 deputies of the tenth National Assembly (1997-2002 legislature), there are 78 ethnic deputies, accounting for 15.6 per cent. The Chairman of the National Assembly is from the Tay ethnic group. In addition, some ethnic deputies are appointed chairmen of specific National Assembly committees. The percentage of ethnic members of the People's Councils at local levels is also high. During the tenth National Assembly, the Chairman of the National Assembly, the National Assembly Standing Committee and other National Assembly commissions hold many meetings with ethnic deputies to discuss and deal with their concerns. Of a total 1.4 million civil servants, the number of ethnic people accounts for a large part. Those who are of ethic origin are given favourable conditions in skills training, appointment and recruitment.

4. Article 5 (d) - Other civil rights

(a) Subparagraphs (i) and (ii)

50. Freedom of movement and of residence within the country, and of freely travelling abroad and returning home are provided for in article 68 of the 1992 Constitution: "The citizen shall enjoy freedom of movement and of residence within the country; he can freely travel abroad and return home from abroad in accordance with the provisions of the laws."

51. Citizens are entitled to enjoy favourable conditions to conduct civil exchanges without any discrimination on the basis of race, religion and language.

52. The Government has also issued a great many regulations providing favourable conditions for the citizens' entry and exit, as well as for the guarantee of the right of movement and residence in Viet Nam, for example Decision No. 210/QD-TTg of 27 October 1999 on the policy towards Vietnamese living abroad. According to this decision, Vietnamese citizens who do not violate the laws will be granted passports to travel overseas for the purpose of working, studying, travelling and resettling and, with lawful Vietnamese passports, they are exempted from entry visas every time they return to Viet Nam.

(b) Subparagraph (iii)

53. The right to have a nationality, a very important civil right of an individual, is affirmed in all the Constitutions of Viet Nam (1946, 1959, 1980 and 1992) and has been institutionalized in various State laws and regulations. Immediately after independence in September 1945, the State issued Ordinance No. 53/SL dated 20 October 1945 on Vietnamese nationality. In 1988, Viet Nam issued the new Law on Nationalities, which was subsequently amended in 1998, in which the right to have a nationality of every individual is provided regardless of race and gender.

54. Article 1 of the 1998 Law on Nationalities provides: "In the Socialist Republic of Viet Nam every individual has the right to hold Vietnamese nationality." The Socialist Republic of Viet Nam is a unified State of all nationals living on Vietnamese territory. Members of all ethnic groups hold Vietnamese nationality. Article 8 of the law also clearly states that "The State of the Socialist Republic of Viet Nam creates favourable conditions for any child born on Vietnamese territory to hold Vietnamese nationality and for any stateless person who is residing in Viet Nam to be granted Vietnamese nationality as stipulated by this law". Marriage, divorce or annulment of an unlawful marriage between a Vietnamese citizen and a foreigner or a stateless person shall not change the Vietnamese nationality of the Vietnamese individual involved as well as his or her children and grandchildren (art. 9).

55. As provided for by this law, any child born to parents who are Vietnamese citizens shall hold Vietnamese nationality regardless of whether that child was born inside or outside the territory of Viet Nam (art. 16). Any child born to parents, one of whom is a Vietnamese citizen and the other is a stateless person, or whose mother is a Vietnamese citizen and the father is an unknown person, that child shall hold Vietnamese nationality. Any child abandoned or found on Vietnamese territory shall hold Vietnamese nationality (art. 19).

(c) Subparagraph (iv)

56. Freedom to marry and to choose a wife or husband is affirmed in article 64 of the 1992 Constitution: "The State protects marriages and the family. Marriages shall conform to the principles of free consent, progressive union, monogamy and equality between husband and wife."

57. To concretize this principle, and based on the 1959 and 1986 Laws on Marriage and Family, the seventh session of the National Assembly (tenth Legislature) adopted in June 2000 the amended Law on Marriage and Family (hereinafter the 2000 Law on Marriage and Family). Article 2 of this law provides that "Marriages between Vietnamese citizens from different ethnic groups or religions, or between believers and non-believers, between Vietnamese citizens and foreigners shall be respected and protected by laws". Obviously, the Vietnamese laws prohibit discrimination in the marriages and family relations of all nationalities in Viet Nam, as well as between Vietnamese citizens and foreigners. These provisions create a legal foundation for any eligible person to have an equal opportunity to exercise his or her rights to marriage and to choose a husband or wife regardless of race or religion.

58. Article 9 of this law stipulates that: "marriage is decided by both man and woman on the principle of free consent; no one may force or cheat others; no third person may force or prevent them from getting married".

(d) Subparagraphs (v) and (vi)

59. According to article 58 of the Constitution, citizens have the rights to ownership of lawful income, savings, housing, personal belongings, means of production, funds and other assets in enterprises or other economic entities. The State protects citizens' rights to lawful ownership and inheritance, regardless of sex, ethnic origin, religion and social status.

60. Article 175 of the Civil Code reaffirms: "The right to ownership by individuals, legal persons and other subjects is recognized and protected by the laws. No one can be illegally prevented from or deprived of ownership of his/her property." Public, private or joint ownership (in wife-husband relationships) of Vietnamese citizens is protected by the laws.

61. In terms of the right to inherit, it is stipulated in article 365 of the Civil Code that "All individuals are equal in exercising the right to leave their property to others and to inherit property in accordance with the wills or the laws". Individuals have the right to make their own wills to decide on their property, to leave it to inheritors, to inherit property in accordance with the wills or the laws (art. 634).

(e) Subparagraphs (vii) and (viii)

62. Article 69 of the 1992 Constitution stipulates: "The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with provisions of the law."

63. Article 70 of the 1992 Constitution also provides that: "The citizen shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law. The places of worship of all faiths and religions are protected by the law. No one can violate freedom of belief and of religion; no one can misuse belief and religions to contravene the law and State policies."

64. Article 129 of the Criminal Code further stipulates that anyone who acts in such a way that prevent citizens from exercising their right to meetings and associations in the interests of the State and the people, their right to freedom of belief or religion, and their right to profess any or no religion shall be punished with a fine or imprisonment from three months to one year. People found guilty may be prohibited from assuming any positions or certain jobs from one to five years.

65. The State of Viet Nam advocates a consistent policy of respect for the freedom of religion. In Viet Nam, many religions coexist peacefully and there have been no religious conflicts. All religions are treated equally. In the past 20 years, the number of religious followers has increased steadily, the number of Catholics has doubled and the number of people going to church has increased many times over. There are about 20 million religious followers in Viet Nam.

66. In the past years, religious followers of different ethnic origins were elected to the National Assembly and to the People's Councils at different levels and have become members of the Viet Nam Fatherland Front and many other mass organizations.

(f) Subparagraph (ix)

67. Article 69 of the 1992 Constitution provides that "The citizen shall enjoy ... the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law". This constitutional right has been put into concrete terms in a number of other legal documents. Article 1 of the 1990 Law on Trade Unions stipulates that "Vietnamese labourers working for businesses and production units of different economic sectors, in foreign-invested enterprises, specialized government units, State agencies and social organizations have the right to establish and join a trade union within the framework of the statute of the labour organization of Viet Nam".

68. The State creates favourable conditions for people to exercise this right in its interests and strictly prohibits any violations of this right of citizens. Article 129 of the Criminal Code provides that, "Any person who prevents citizens from exercising the right to freedom of assembly and association in the interests of the State and the people may be liable to imprisonment for up to 5 years".

5. Article 5 (e) - Economic, cultural and social rights

(a) Subparagraph (i)

69. The right to work, the freedom to select an occupation suitable to one's capacity, the right to enjoy favourable and equal working conditions, unemployment protection and equal pay for the same work, regardless of sex and ethnic origin, are provided for in the 1992 Constitution. As article 55 of the Constitution reaffirms: "The citizen has both the right and duty to work. The State and society shall work out plans to create ever more employment for the working people."

70. Article 56 of the 1992 Constitution provides for policies for workers as follows: "The State shall enact policies and establish regimes for the protection of labour. The State shall establish working times, wage scales, regimes of rest and social insurance for State employees and wage-earners; it shall encourage and promote other forms of social insurance for the benefit of the working people."

71. In accordance with article 63 of the 1992 Constitution, "Men and women shall receive equal pay for equal work. Women workers shall enjoy a regime related to maternity. Women who are State employees and wage-earners shall enjoy paid prenatal and post-natal leaves during which they shall receive all their wages and allowances as determined by law".

72. Viet Nam has acceded to a number of ILO conventions, including Convention No. 100 on equal pay for equal work for both male and female workers.

73. Article 45 of the Civil Code provides that, "Individuals have the right to work. Everyone has the right to work, and enjoys the freedom to select an occupation or job free from discrimination on the basis of sex, ethnic origin, social status, belief or religion". Article 20 of the same code reaffirms that, "Everyone has the freedom to select an occupation and vocational training place appropriate for the demands of their work".

74. In its labour policies, the State extends preferential treatment to workers in remote regions and geographically and economically disadvantaged areas; commune, district and township medical workers and employees, teachers and education cadres in mountainous areas are entitled to extra salary and allowances.

75. It is also provided for in article 227 of the Criminal Code that, "Anyone who violates the regulations on labour safety, sanitation and safety in densely populated areas, causing harm or loss of life to other people or damage to others' property, shall be subject to imprisonment from six months to five years. If the individual is personally in charge of the labour safety, sanitation and safety in densely populated areas or in case of serious consequences, he/she shall be subject to imprisonment for up to 12 years".

76. In accordance with article 228 of the Criminal Code, anyone using children in work which is heavy, dangerous or in contact with poisonous substances shall be subject to imprisonment for up to two years, and in case of serious consequences or of many children being employed for such work, he/she may be subject to imprisonment for up to seven years and be subject to an additional fine of up to 20 million dong.

(b) Subparagraph (ii)

77. The right to establish a trade union originated from the right to association provided by the laws, on the basis of article 69 of the 1992 Constitution. Article 1 of the Law on Trade Unions provides that, "Vietnamese citizens working in business and production units of different economic sectors, in foreign-invested enterprises, specialized government units, State agencies and social organizations have the right to establish and join a trade union in accordance with the statute of the labour organization of Vietnam".

78. Article 7 (para. 2) of the Labour Code stipulates that, "Employees have the right to establish, join, or operate a trade union in accordance with the Trade Union Law so as to protect their legitimate rights and interests". Article 154 (para. 3) of the Law further stipulates that: "The employer shall not discriminate against his/her employee(s) on account of the latter's act to establish, join or operate a trade union, or shall not use economic measures or others to interfere in the organization or operation of a labour union".

79. Article 129 of the Criminal Code provides that those who obstruct the implementation of the citizens' right to association in conformity with the interests of the State or other people shall be liable to punishment ranging from a fine to a warning to non-custodial reformation to imprisonment for three months to one year. This includes obstruction with regard to the establishment of and participation in a trade union.

80. In Viet Nam, the trade union plays an important role in protecting employees' interests not only in State enterprises, but also in those privately and foreign owned, thus evolving more and more the participation of employees.

(c) Subparagraph (iii)

81. Article 62 of the 1992 Constitution provides that, "The citizen has a right to build dwelling-houses according to zoning regulations and the law. The rights of lessees and lessors are protected by the law". The Civil Code protects the right of citizens to reside and to own or lease a house. The State has implemented a policy of allocating land to individuals for the purpose of building houses for long-term use in accordance with the laws. The Government carries out policies suitable to the conditions of each area, but gives priorities to and creates favourable conditions for ethnic groups.

(d) Subparagraph (iv)

82. Article 61 of the 1992 Constitution provides that, "The citizen is entitled to a regime of health protection. The State shall establish a system of hospital fees, together with one of exemption from and reduction of such fees. The citizen has the duty to observe all regulations on disease prevention and public hygiene. It is strictly forbidden to produce, transport, deal in, store and use unlawfully opium and other narcotics. The State shall enact regulations on compulsory treatment of drug addiction and treatment of dangerous social diseases."

83. Article 23 of the Law on Public Health Protection provides that, "Everyone suffering from illness, diseases or accidents will be examined and treated at medical facilities at the place where he resides, works or studies. Patients are allowed to choose their own doctors and medical facilities". This law (arts. 41 and 42) also gives priority to old people, war invalids, military patients, the handicapped and members of ethnic groups in having medical examinations and treatment.

84. In spite of a budgetary constraint, the Government has made great efforts in allocating appropriate spending for public health and social insurance systems with a view to protecting community health. The hospital system has been upgraded with more qualified doctors. Up to now, over 90 per cent of the population has access to health-care services. By the end of the year 2000, each village or commune will have one medical station. A medical system to treat drug addicts has been set up in major cities. In 1999, the Department of Food Safety was established and it has significantly contributed to food sanitation and safety. This has helped to better ensure the citizens' right to health care and health protection. A national medical support programme has equipped 2,800 communal medical stations and 166 district hospitals. The Government has also invested in constructing 1,500 medical stations for poor and remote communes.

85. In recent years, the Government has implemented appropriate policies to develop the public health network in the ethnic regions. Different programmes such as the expanded programme of immunization for children, the campaign to use iodized salt, anti-mosquito spraying, malaria prevention, weekly clean water exercises, and the "green and clean" movement all have been implemented effectively.

86. Directive 525/TTg issued on 2 November 1993 by the Prime Minister clearly pointed out that one of the immediate tasks in the health and social sector was to discourage the ethnic people from growing poppies and organizing effective drug addict rehabilitation activities. To cope with malaria, goitre and diarrhoea, each province must review its planning process and strive to basically wipe out malaria and goitre by 2000; consolidate health-care facilities in the mountainous and remote areas; complete the construction of district health-care centres, strengthen the health-care system at commune and village level; establish more mobile health-care units.

(e) Subparagraph (v)

87. The State of Viet Nam has always considered education and training as the primary national objective. Developing the education system to enhance the people's level of literacy, develop human resources and nurture talents are the objectives of special importance cited in the 1992 Constitution (art. 35). The State implements a policy of priority to encourage educational development in the mountainous and ethnic regions and those areas faced with special difficulties (art. 36).

88. According to article 5 of the Law on Education, the State assists ethnic people to study their own language and writing system.

89. Article 6 of the law provides, "the State ensures the necessary conditions to universalize primary education in ethnic, mountainous and remote areas and to accomplish the universalization of primary education in new residential areas right from their establishment".

90. Article 9 of the law also stipulates that, "Every citizen, without discrimination as regards his or her nationality, religion, belief, gender, family origin, social status or economic situation, has the right to enjoy the same educational opportunities. The State gives priorities and creates favourable conditions for ethnic children, for children in specially difficult economic and social situations, and those entitled to priority treatment, the handicapped and others in the same category to exercise their right and responsibility to study".

91. Article 29 of the law also stipulates that, "the State gives priorities in terms of capital investment for school building, providing facilities, training teachers, and ensuring that the educational demands of ethnic children are met".

92. Article 78 of the law further provides that, "With regard to the entry exams to universities and vocational secondary schools, the State encourages the selection and enrolment of candidates from ethnic areas and areas with special economic and social difficulties with a view to training cadres, employees from among their own".

93. For vocational training, article 20 of the Labour Law provides, "Every citizen has the right to freely choose his/her occupation or job and a suitable vocational training place. Enterprises, organizations and individuals having sufficient conditions provided for by the laws may open vocational training facilities".

94. In order to overcome disparities between areas, the State allows a reduction in tuition fees and provides assistance in the form of education materials and boarding facilities funded by the State for ethnic people, and material support for teachers in mountainous and remote areas. In the last year, 700,000 workers have had the opportunity to participate in different forms of vocational training.

95. So far, there are five colleges established especially for ethnic students in Viet Nam. At university level, ethnic students are entitled to scholarships 1.5 times the average. Ethnic candidates are given priority in recruitment after graduation.

96. In particular, the State has introduced a number of programmes giving priority to ethnic people, such as the "Programme on consolidation and development of education in mountainous and remote areas, in isolated islands and areas facing many difficulties" during the 1991-1995 period and extended to 2000. This programme is aimed at creating sources for the training of cadres in ethnic areas and educationally underdeveloped areas, gradually enhancing the level of education, introducing obligatory education up to the third grade, and first and foremost, concentrating on illiteracy eradication for youths from 15 to 25 years of age. So far, over 500 billion dong from the State budget have been invested for the Government's education programmes. Following are the results obtained:

(a) Completion of the illiteracy-eradication campaign. This campaign was intensively implemented in the late 1990s. According to statistics, most mountainous provinces have successfully eradicated illiteracy;

(b) Establishment of a boarding school system for ethnic children. This is aimed at providing boarding facilities for ethnic children from national to provincial and district levels. By 1998, throughout the country, there were 10 schools of this kind at the national level, 40 schools at provincial level and 170 at district level. Currently, about 60,000 ethnic children are studying in these schools. The annual number of graduates from lower and upper secondary schools is 7,000 and 4,000, respectively. This constitutes an important resource for training ethnic cadres at universities and other training institutes;

(c) Implementing of the project providing primary-school textbooks for a curriculum of 120 weeks or 100 weeks for needy areas and carrying out a pilot teaching programme in ethnic languages funded by UNICEF. Students under the 120- or 100-week curriculum are often in extremely difficult circumstances; textbooks are therefore made available free of charge. The pilot teaching in ethnic languages has been carried out in the H'Mong, Ede, Gia Rai and Bana communities. Textbooks in four languages - Homing, Cham, Ba Na and Gia Rai have been compiled and used, on a pilot basis, in five schools in Lao Cai, Gia Rai, Kon Tum and Ninh Thuan provinces. So far, 1,000 students have studied under this programme.

(f) Subparagraph (vi)

97. The Vietnamese laws ensure citizens' right to participate on an equal footing in the cultural life of the country, regardless of their ethnic group, religion and language. The State encourages the development of talents and creativity in culture and the arts as well as artistic and literary activities among the population.

98. The state also prohibits those activities that are detrimental to morality or cause damage to the personality and the fine traditions of the Vietnamese people. With a view to tapping the potential for boosting socio-economic development in mountainous and ethnic areas and gradually reducing the disparity in living standards and cultural entertainment between regions, the Prime Minister issued, on 3 December 1998, Directive No. 39/1998/CT-TTg on strengthening cultural and communication activities in mountainous and ethnic areas. The objectives of this directive are to implement the resolution of the Fifth Party Central Committee Plenum (VIII Congress) on building and developing an advanced Vietnamese culture imbued with national identity; preserving and promoting the cultural essence of ethnic minorities; improving and broadening the information requirements of ethnic and mountainous areas; fulfilling planning and training programmes; developing suitable policies towards cadres serving in these areas; encouraging people to write on ethnic issues; promoting cultural exchanges among ethnic groups; and preserving and promoting ethnic languages and writing systems in cultural activities.

99. To implement the Directive, the Ministry for Culture and Information and the Committee for Mountainous Regions and Ethnic Affairs have formulated a joint programme with a view to preserving and further developing culture and communication in mountainous and ethnic areas for the period 2000-2005. The programme has three main components: to preserve and promote the traditional culture of ethnic people (customs and practices relating to weddings, funerals, worship, cultural festivals, costumes of ethnic groups, their languages and writing systems in all cultural and communication activities); to promote cultural activities in mountainous and ethnic areas (build a cultural lifestyle, provide a material basis and more equipment for cultural and communication activities in mountainous and ethnic areas, build and develop contingents of cadres engaged in culture and communication); to protect and restore relics and preserve beauty spots and the environment in mountainous and ethnic areas.

100. In order to facilitate access to information by the ethnic minorities, at the instruction of the Prime Minister, the Minister-Chairman of the Committee for Mountainous Regions and Ethnic Affairs has issued a decision (No. 86/1999/QD-UBDTMN on 7 June 1999) on implementing a pilot project to deliver, free of charge, important newspapers to extremely difficult, remote and isolated areas. Under this decision, five newspapers are delivered free of charge to 1,000 communes in remote and isolated areas: Countryside Today, published by the Vietnamese Farmers' Association, Vietnamese Agriculture, published by the Ministry of Agriculture and Rural Development; The VAC (household) Economics Journal, published by the Horticultural Association; Rural Culture magazine, published by the Ministry of Culture and Information; The Science and Life Journal, published by the Viet Nam Union of Scientific and Technological Associations. Each commune is provided with one copy of each newspaper. This project has shown encouraging initial results.

101. The State attaches equal importance to strengthening and modernizing the mass media network, improving the quality and contents of its programmes to suit different kinds of audiences and ethnic groups, and expanding these programmes to remote and isolated areas. In the Prime Minister's decision regarding the long-term and the five-year plan 1996-2000 on

the socio-economic development of mountainous provinces in northern Viet Nam, priority is given to communication and television to bridge the gap between mountainous and other regions in the country. The immediate task is to expand radio and television coverage to mountainous, remote and border areas. The time allocated to programmes in ethnic languages and on socio-economic development in the respective localities is also increased. So far, radio and television coverage have reached 90 per cent of the territory.

102. In the recent past, special efforts have been made to increase programmes in ethnic languages and to improve the quality of the programmes of the national broadcasting and television stations to suit the demands and traditions of ethnic people. Since 1994, radio broadcasting of Viet Nam has increased the time for programmes in the H'Mong, Ede, Bana, Gialai and Sedang languages. Since 1997, new contents were added to programmes in ethnic languages to raise the awareness of those groups on the laws, growing crops, animal husbandry, health care, raising children, etc. The Radio of Viet Nam has also had a special programme on cultural exchanges among different ethnic groups of Viet Nam to promote mutual understanding among ethnic groups, preserve national identity and good practices of different groups and encourage ethnic people to abolish outdated and improper practices.

6. Article 5 (f) - The right to public transport services and entertainment facilities

103. Every Vietnamese citizen, regardless of his or her gender, ethnic origin, belief, religion or social status, has the right to use public transport and entertainment facilities such as hotels, restaurants, cafeterias, theatres and parks. The Government also pays attention to developing beauty spots, preserving historical relics, especially in those places recognized as part of the world heritage (ancient capital of Hue, Ha Long Bay, ancient citadel of Hoi An), to serve the cultural demands of the people.

F. Article 6. Protection, remedies and compensation

104. Article 87 of the Criminal Code provides that: sowing hatred, ethnic discrimination and division is an offence undermining the equal rights of the ethnic communities of Viet Nam and is considered as a crime against the State policy on solidarity; the offender shall be liable to imprisonment from 5 to 15 years.

105. Article 74 of the 1992 Constitution provides that, "The citizen has the right to lodge complaints and denunciations with the competent State authorities against the illegal doings of State organs, economic bodies, social organizations, units of the people's armed forces, or any individual ... It is strictly forbidden to take vengeance on the person making complaints and denunciations, or to misuse the right to make complaints and denunciations with the aim of slandering and causing harm to another person".

106. Article 12 of the Civil Code affirms that, "All the civil rights of individuals, of legal entities and other subjects are respected and protected by the laws". When such rights are infringed, an individual can request the court or a competent state authority to redress the case in

one of the following ways: to reaffirm his/her civil rights; to force the violator to stop the act of infringement; to require a public apology or a correction; to force the violator to fulfil his/her civil obligations; to compensate for the damage.

107. Article 263 of the Civil Code also stipulates that, "A lawful owner and possessor has the right to request the Courts and other competent State authorities to force those who violate the right to ownership and possession to return such property, to stop any acts that illegally prevent others from exercising the right to ownership and possession and to demand compensation". When exercising their rights to ownership and possession, owners and possessors have the right to request those committing illegal acts to stop such acts. If such acts are not halted voluntarily, they have the right to request the courts or other competent State authorities to enforce such a halt.

108. According to article 624 of the Code, "The judicial authorities shall be obliged to compensate for damage caused by its people when investigating, prosecuting, conducting hearings and enforcing sentences. These authorities are also responsible for obliging their people who caused the damage to compensate the victims in accordance with the laws, if such people committed mistakes in carrying out their duties".

109. The Ordinance on Settling Labour Disputes stipulates that, "Workers, working groups and employers have the right, in accordance with the law, to submit labour disputes to the courts in order to protect their legitimate rights and interests". Article 1 of the same ordinance also provides that, "Citizens and legal persons have the right, in accordance with the law, to initiate legal action in civil cases to request the People's Courts to protect their own legitimate rights and interests".

110. Article 1 of the Law on Complaint and Denunciation stresses, "Citizens, agencies and organizations are entitled to lodge complaints against an administrative decision made by an administrative body, or by an authorized person of an administrative body in case there is evidence that the administrative decision is unlawful and in violation of their legitimate rights and interests. Citizens are entitled to denounce any competent agencies, organizations, or individuals who harm or threaten to harm the interests of the State, or the legitimate rights and interests of citizens, agencies and organizations".

111. To ensure compensation for losses or damage caused by State employees, government officials, or personnel of any administrative body, the Government issued Decree No. 47/CP on 3 May 1997. The Ministry of Finance also issued Circular 38/TT-BCT on 30 March 1998 which provides guidelines for the estimation of compensation.

112. As such, the existing laws and regulations guarantee the legitimate rights and interests of all Vietnamese citizens without discrimination with regard to gender, nationality, religion, family situation and social status. In case of violation, citizens are entitled to request the courts and other competent State authorities to apply necessary and timely measures to redress those rights and interests.

G. Article 7. Education on the elimination of racial and ethnic discrimination and promotion of understanding and solidarity among nations

113. In Viet Nam, education on the elimination of racial and ethnic discrimination and promotion of understanding and solidarity among nations are implemented mainly through the following measures:

(a) Legal education, especially with regard to the basic legal documents such as the Constitution, the Penal Code, the Labour Code, the Laws on Education and on the Press, is carried out in primary and secondary schools and universities as well as in society at large. As mentioned above, many provisions of those laws lay the foundation for knowledge on the policy of equality, solidarity, mutual assistance among nationalities and prohibition of ethnic division and discrimination;

(b) Incorporating into the school curricula of primary and secondary education suitable knowledge on the literary works, the natural environment and the fine culture of the ethnic people in the mountainous regions. Social subjects have helped to raise the awareness of pupils about the cultural, social and economic life of various ethnic groups, and evoke a spirit of solidarity with and assistance for the people in disadvantaged areas. The Museum on Ethnology, which was built in the mid-1990s, has been hosting visits by Vietnamese, especially schoolchildren, coming from all corners of the country to learn more of the history of different ethnic groups living in Viet Nam as well as their life and culture;

(c) In daily life, by disseminating literature and education, various topics relating to opposing all forms of racial discrimination, such as apartheid, discrimination on the basis of skin colour, xenophobia and the emergence of neo-Fascism, are often discussed;

(d) The mass media, particularly the press, radio and television, have increased their programmes and contents to raise awareness and promote solidarity among Vietnamese peoples and to disseminate State laws and policies against racial discrimination and ethnic divisions (as mentioned in detail in article 5);

(e) A large number of publications on the social and cultural life and customs of various ethnic groups have been released. Cultural exchanges among ethnic groups and festivals of ethnic cultural performances are staged regularly. These exchanges are aimed at raising cultural awareness.

114. The National Assembly regularly organizes hearings to listen to comments and opinions from village chiefs of ethnic groups in the highlands regarding State policies and their implementation.

Conclusion

115. Viet Nam's third periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, prepared under the guidance of the

Committee (CERD/C/70/Rev.4), is the continuation of the country's second report. The present report makes an effort to fully describe the laws and the policy measures implemented by the Government of Viet Nam since 1930 to fulfil its commitments under the Convention.

116. The policies and measures that the Vietnamese State has undertaken over the last years towards ethnic groups, particularly those living in the most disadvantaged areas, have recorded considerable achievements. Significant and steady progress has been made in the social and cultural development of ethnic and mountain people over the last decade. Impressive and steady improvements have also been recorded in the overall cultural, material and spiritual life of the people. Partial progress has been witnessed in building infrastructure (transport, schools, water-pumping stations, electricity, the press, etc.). Increasing numbers of ethnic representatives have been elected to high positions and have a role in the National Assembly and in other key State agencies. The State has faithfully implemented its policy of equality, solidarity and mutual assistance among different ethnic groups, and strictly forbidden racial discrimination, and as a result the ethnic people have placed their trust in State policies and directions. This has given strength to Viet Nam in overcoming the difficulties emerging from the war as well as in the course of national socio-economic development.

117. Beside the above achievements, the social and economic life of the ethnic people still faces many difficulties which need urgent solutions. Those difficulties lie in slow economic growth rates, poor infrastructure, higher poverty and high birth rates, and environmental degradation.

118. For the coming years, the State has conducted studies and set out its tasks for the socio-economic development of the ethnic regions, focusing on speeding up that development in each ethnic region; developing processing industries in line with the raw material resources of the area; increasing intensive investment to upgrade the existing facilities; and promoting traditional handicrafts and small industries. Many other important and concrete tasks have also been set out, including to continue upgrading the transport and irrigation networks; to intensify urban development by constructing towns in remote areas; to accelerate the establishment of communal cluster centres in order to support production; to develop the health-care networks in communes and villages; to universalize primary education and eradicate illiteracy; to consolidate the networks of boarding and semi-boarding schools for ethnic children at the grass-roots level up to college at the national level; to strengthen education planning; and to train and use cadres of ethnic origin at all levels.

119. To conclude, we reaffirm that Viet Nam is resolutely determined to refute all forms of racial discrimination including ethnic discrimination, apartheid and xenophobia. The State of Viet Nam and the Vietnamese laws guarantee and respect the equality of the different groups living within the Vietnamese territory in all fields, from political to economic, cultural and social, and strictly prohibits any practices of racial and ethnic discrimination and division. The State also creates conditions for ethnic people to develop themselves and improve their material and spiritual life.